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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER D. MARTIN and KEVIN G. PIEL

Appeal 2016-005530
Application 13/308,029¹
Technology Center 2400

Before ROBERT E. NAPPI, SCOTT B. HOWARD, and
JOYCE CRAIG, *Administrative Patent Judges*.

PER CURIAM

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–16, which constitute all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify Honeywell International, Inc. as the real party in interest. App. Br. 2.

THE INVENTION

The disclosed and claimed invention is directed to “systems and methods which enable a first person to automatically initiate video communications with a second, displaced person to provide feedback as to status of the first person.” Spec. ¶ 1.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. An apparatus comprising:
a regional monitoring system which includes a camera having a selected field of view; and
control circuits carried by the system, and responsive to a locally generated manual input from an input/output port of the regional monitoring system that disarms the regional monitoring system, the control circuits automatically initiate a wireless communication from the input/output port to a communications device at a displaced location and transmits video from the camera to the communication device for display on the communication device.

REFERENCES

The prior art relied upon by the Examiner as evidence in rejecting the claims on appeal is:

| | | |
|-----------------|--------------------|--------------|
| Yukawa | US 2006/0022816 A1 | Feb. 2, 2006 |
| Howarter et al. | US 2008/0129498 A1 | June 5, 2008 |
| Cheng et al. | US 2011/0267462 A1 | Nov. 3, 2011 |

REJECTIONS

Claims 1–15 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Cheng in view of Howarter. Final Act. 3–8.

Claim 16 stands rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Howarter in view of Yukawa. Final Act. 8–10.

ANALYSIS

We have reviewed the Examiner's rejection in light of Appellants' arguments that the Examiner erred. In reaching this decision, we have considered all evidence presented and all arguments made by Appellants. We disagree with Appellants' arguments with respect to the pending claims, and we incorporate herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 3–10), and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellants' arguments (Ans. 9–10). We incorporate such findings, reasons, and rebuttals herein by reference unless otherwise noted. However, we highlight and address specific findings and arguments for emphasis as follows.

Appellants contend that neither Cheng nor Howarter teach or suggest the control circuits recited in claim 1. App. Br. 7. However, Appellants merely quote the claim language and make a naked assertion that the prior art does not teach the limitation. That is insufficient to raise an argument that the Examiner erred. *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011); *see also* 37 C.F.R. § 41.37(c)(1)(iv). Appellants fail to provide sufficient, persuasive argument or evidence regarding the specific deficiency of references with respect to the disputed limitation of claim 1.

Moreover, Appellants' contention was directed to the whether the references individually teach or suggest the claimed control circuits. App. Br. 7. However, the Examiner's findings were based on the combined teachings of Cheng and Howarter. Final Act. 3–4. Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *In re Merck & Co.*,

800 F.2d 1091, 1097 (Fed. Cir. 1986). The test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references, but whether the claimed subject matter would have been obvious to those of ordinary skill in the art in light of the *combined teachings* of those references. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Appellants also argue “because none of the cited references are directed to the problem solved by the claimed invention,” there was no reason to combine the references. Our reviewing court guides that it is sufficient that the references suggest doing what Appellants did, although the Appellants’ particular purpose was different from that of the references. *In re Heck*, 699 F.2d 1331, 1333 (Fed. Cir. 1983) (citing *In re Gershon*, 372 F.2d 535, 538–39 (CCPA 1967)). Accordingly, we are not persuaded by Appellants’ argument that the Examiner erred. Instead, we agree with and adopt the Examiner’s finding that a person of ordinary skill in the art would have combined the Chang and Howarter “to provide additional safety and security to users of set top boxes and wireless devices.” *See* Final Act. 4.

Finally, to the extent Appellants raise new arguments in the Reply Brief, because Appellants did not raise those arguments in the opening brief and good cause has not been shown why it should be considered, we will not consider those arguments. 37 C.F.R. §41.41(b)(2); *Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (Informative).

Accordingly, we sustain the Examiner’s rejection of claim 1, along with the rejections of claim 2–15, which were not separately argued. *See* App. Br. 7.

Appellants have not identified any errors in the Examiners findings regarding claim 16. “If an appellant fails to present arguments on a

particular issue — or, more broadly, on a particular rejection — the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection.” *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential). Accordingly, we summarily affirm the Examiner’s rejection of claim 16.

DECISION

For the above reasons, we affirm the Examiner’s decisions rejecting claims 1–16.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv). *See* 37 C.F.R. § 41.50(f).

AFFIRMED